

Application No. 10/652,867
Amendment "B" dated March 8, 2006
Reply to Office Action mailed 11/16/2005

REMARKS

The present Amendment is in response to the Office Action mailed September 16, 2005. Claims 1 and 16 are amended. Claims 23-37 have been previously withdrawn. Claims 1-22 are now pending in view of the above amendments.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of the references, if any, is consistent with the Examiner's understanding. Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Rejections Under 35 U.S.C. § 102

The Office Action rejected claims 1-22 under 35 U.S.C. § 102(b) as being anticipated by *Maggenti* (U.S. Patent Application Number 2002/0077136). As the Examiner is aware, "a claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently described, in a single prior art reference." See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). The following discussion illustrates that claims 1-22 are not anticipated by *Maggenti*.

Embodiments of the invention are directed to transferring the floor between devices engaged in instant connect communications. One of the advantages afforded by the invention is that both parties of a network based instant connect communication can take control of the floor at any time. The network based instant connect communication therefore exhibits the casual, two-way conversation patterns that have been absent in conventional network based instant connect calls.

The Examiner alleges, by citing to paragraphs [0004], [0010], and [0211] and to Figure 16, that claims 1 and 16 are anticipated by *Maggenti*. Applicants respectfully traverse the rejections. *Maggenti* teaches a method for providing arbitration between a first communication

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device having floor control in a group communication network and a second communication device competing for floor control. *See* abstract. The citations to *Maggenti* made by the Examiner (§§[0004], [0010], and [0211] and to Figure 16) make it clear that *Maggenti* requires an arbitration algorithm in order to determine whether to grant or deny a floor request.

Maggenti teaches, for example, that the method for "arbitrating between a first communication device having floor control in a group communication network and a second communication device competing for floor controls" includes several steps. *See* ¶ [0010]. The method of arbitration taught by *Maggenti* occurs, for instance, when a floor-control request is received from a second communication device. *See Id.* Next, *Maggenti* teaches that the priority levels of the first and second communication devices are compared. *See Id.* Finally, floor control is only granted if the second communication device has a higher or equal priority. *See Id.*

The requirement to perform an arbitration algorithm cannot mimic a two way conversation pattern because the request may be denied as the priority levels of the two devices are compared. According to *Maggenti* in a situation where a first device has a higher priority than a second device, the request from the first device is granted because it has higher priority while the request from the second device is denied because it has lower priority. Granting the request from the first device and denying the request from the second device does not facilitate a two way conversation and does not teach or suggest automatically transferring the floor. Thus, the teaching of comparing priority levels or of performing an arbitration algorithm is inconsistent with the claims as presented herein.

More specifically, *Maggenti* performs an arbitration algorithm to compare the priority levels of the two devices. For instance, *Maggenti* teaches that "The CM 104 transitions from the arbitrate state 656 to the talk state 636 and sends the interrupting participant a PTX deny message 672 if the arbitration algorithm rules in favor of the current talker. The CM 104 transitions from the arbitrate state 656 to the grant state 612 and sends the net's current talker a PTX interrupt message 676 if the arbitration algorithm rules in favor of the interrupting participant." *See* ¶ [0211]. This illustrates that the arbitration algorithm either grants or denies the request. *Maggenti* states that "the process of granting and denying transmission requests is known as arbitration. *See* ¶ [0035].

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In contrast, claim 1 requires that the floor be automatically transferred to the second device. Because the floor is automatically transferred, no arbitration -- as taught by *Maggenti* -- is required. Further, claim 1 as amended requires transferring the floor to the second device automatically without comparing a priority level of the first device to priority level of the second device and without waiting for the first device to relinquish the floor.

Automatically transferring the floor to the second device without comparing a priority level of the first device to a priority level of a second device clarifies that no arbitration regarding whether or not to grant or deny the floor request, as taught by *Maggenti*, is required by claim 1. Rather, claim 1 requires automatically transferring the floor. For at least these reasons, Applicants respectfully submit that claim 1 is not anticipated by *Maggenti* and is in condition for allowance.

Claim 16 has been amended to require automatically taking the floor . . . without performing arbitration regarding the floor request signal between the remote device and the communication device. Claim 16 also overcomes the art of record for at least the same reasons as discussed above. The dependent claims 2-15, and 17-22 are also believed to be in condition for allowance for at least the reasons discussed herein.

Conclusion

The discussion made herein is not to be construed as an admission regarding aspects of the Examiner's rejection or of the Examiner's characterization of the art that have not been specifically addressed herein. As noted above, the remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified above are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references.

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

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Dated this 8th day of March 2006.

Respectfully submitted,



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